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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/796,687	12/29/2004	Ann Marie Bryan	J25-1253	2639
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EXAMINER OLANIRAN, FATIMAT O				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/796,687

Applicant(s)

BRYAN, ANN MARIE

Examiner

FATIMAT O. OLANIRAN

Art Unit

2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 October 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 10/13/2008 have been fully considered but they are not persuasive.
2. In response to applicant's argument that applicant's invention is directed towards the hearing impaired, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.
3. In response to applicant's arguments, the recitation "...a hearing impaired wearer..." has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

4. In addition applicant argues on page 9 of 16, "...nor does Wiener contemplate tailoring the speakers so that they transmit vibrations to the wearer..."

Examiner respectfully disagrees; Weiner clearly discloses directing vibrations towards the user, (col. 5 lines 55-65).

5. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Applicant fails to argue the combination of Wiener (7035422) in view of Anderson (6594370).

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 2-4, 7, 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wiener (7035422) in view of Anderson (6594370) in further view of Atallah et al (6820280) in further view of Fitch (5912653).

Claim 2, Weiner discloses a left and a right front panel for covering respective left and right chest areas of the wearer, each front panel having an upper collar portion and a vest lining (Fig. 1a-b and col. 4 line 47-51);

a rear panel having opposite side edges connected respectively to the front panels for covering a back area of the wearer, and defining with the front panels, left and right sleeve openings, the rear panel having an upper collar portion and a further vest lining (Fig. 1a-b and col. 4 line 47-51);

a left and a right speaker mounted to the respective left and right front panels for receiving signals to generate vibrations, the mounting of the left and right speakers being adapted for transmitting vibrations to the chest areas of the wearer (Fig. 1a-e and col. 5 line 56-65);

a rear speaker mounted to the rear panel for receiving signals to generating vibrations, the mounting of the rear speaker being adapted for transmitting vibrations to the back

area of the wearer (Fig. 1b, Fig. 1e and col. 5 line 56-65);

Weiner does not clearly disclose a plug socket near one of the side edges of the rear panel for connecting at least one of a sound generating device and a power charger to the speakers. However, Weiner discloses a plug socket near one of the pockets for connecting at least one of a sound generating device and a power charger to the speakers (col. 6 line 39-42); Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to try different design placements, including the edges of the rear panel, in order to make the wiring and socket less noticeable.

Weiner does not disclose a left and a right sleeve each removably connected to one of the sleeve openings for covering left and right arms of the wearer; a wristwatch removably connected to one of the sleeves; at least one wireless receiver mounted to the collar portion of at least one of the front and rear panels for sending sound signals to the speakers; and at least one reflector on at least one of the front panels, the rear panel and the sleeves.

Examiner takes official notice on the limitation a left and a right sleeve each removably connected to one of the sleeve openings for covering left and right arms of the wearer; Weiner discloses a vest and various clothing (col. 2 line 5-6), therefore it would be obvious to one of ordinary skill in the art at the time the invention was made to have removable sleeves so that a user may form a vest from a jacket and vice versa as desired.

Examiner takes official notice on the limitation a wristwatch removably connected to one of the sleeves;

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include a wristwatch so that the user can tell the time.

Anderson discloses at least one wireless receiver mounted to the collar portion of at least one of the front and rear panels for sending sound signals to the speakers (Fig. 1 and col. 4 line 28-35) and at least one reflector, said reflector being used for reception of signal (col. 4 line 35-40)

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Weiner's collar portion and panel speakers with the antenna and communication method of Anderson in order to be able to receive audio wirelessly (Weiner; col. 14 line 50-51).

Anderson does not explicitly disclose blinking reflector on at least one of the front panels, the rear panel and the sleeves, said reflector being used for reception of signals to the vest.

Atallah discloses a blinking reflector on at least one of the front panels, the rear panel and the sleeves, said reflector being used for reception of signals to the vest (col. 1 line 20-34 and col. 1 line 49).

Therefore it would be obvious to one of ordinary skill in the art at the time the invention was made to modify the vest panel of Weiner with the luminescent panels of Atallah in order provide safety for the user as taught by Atallah (col. 1 line 35-41).

Weiner in view of Anderson and Atallah do not explicitly disclose at least one rechargeable battery connected to the at least one wireless receiver for powering the receiver and charging means detachably connected to the rechargeable battery for charging the battery.

Fitch discloses at least one rechargeable battery connected to the at least one wireless receiver for powering the receiver (Fig. 6 and col. 3 line 66-67 and col. 4 line 1-16); and charging means detachably connected to the rechargeable battery for charging the battery (inherent).

Therefore it would be obvious to one of ordinary skill in the art at the time of the invention to modify the jacket of Weiner with rechargeable battery of Fitch in order to have a versatile system.

Claim 3 analyzed with respect to claim 2, Weiner in view of Anderson disclose, at least one pocket in each of the front panels a sound generating device in at least one of the pockets (Weiner, Fig. 1a and col. 6 line 32-36), and a credit card size remote control in combination with the vest for remotely controlling the sound generating device (Anderson; col. 3 line 63-66 and col. 4 line 3-5).

Claim 4 analyzed with respect to claims 2-3, Weiner in view of Anderson disclose

wherein the sound generating device is selected from the group consisting of: a CD player, an MP3 player, a radio, a computer, a DVD player, a game, and a television (Weiner; col. 6 line 34-35).

Claim 7 analyzed with respect to claim 2, Weiner discloses wherein the speakers are internal and are mounted within the vest linings (col. 6 line 3-6 and col. 5 line 57-59).

Claim 10 analyzed with respect to claim 2, Weiner in view of Anderson disclose including a wireless transmitter connected to one of the collar portion (Anderson; Fig. 1 and col. 4 line 28-31).

Claim 11 analyzed with respect to claim 2, Weiner in view of Anderson disclose wherein the receiver is mounted to one of the collar portions of one of the front panels, the vest including a transmitter connected to the collar portion of the other front panel (Anderson; Fig. 1 and col. 4 line 28-31).

3. Claims 5-6, 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wiener (7035422) in view of Anderson (6594370) in further view of Marmaropoulos (6535102).

Claim 5 analyzed with respect to claims 2-4, Weiner in view of Anderson do not disclose including a hood connected to the collar portions and containing a built-in headphone for the wearer.

Marmaropoulos discloses a hood connected to the collar portions and containing a built-in headphone for the wearer (Fig. 1 and col. 2 line 12-15).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the speaker garments of Weiner in view of Anderson with the hood and earphone of Marmaropoulos so that a user may have a convenient and comfortable method of listening to audio during cold weather.

Claim 6 analyzed with respect to claim 2, Weiner in view of Anderson do not disclose including a hood connected to the collar portions and containing a built-in headphone for the wearer.

Marmaropoulos discloses a hood connected to the collar portions and containing a built-in headphone for the wearer (Fig. 1 and col. 2 line 12-15).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the speaker garments of Weiner in view of Anderson with the hood and earphone of Marmaropoulos so that a user may have a convenient and comfortable method of listening to audio during cold weather.

Claim 8 analyzed with respect to claims 2, 7, Weiner in view of Anderson do not disclose including a hood connected to the collar portions and containing a built-in headphone for the wearer.

Marmaropoulos discloses a hood connected to the collar portions and containing a built-in headphone for the wearer (Fig. 1 and col. 2 line 12-15).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the speaker garments of Weiner in view of Anderson with the hood and earphone of Marmaropoulos so that a user may have a convenient and comfortable method of listening to audio during cold weather.

Claim 9 analyzed with respect to claims 2, 7-8, Weiner in view of Anderson disclose including a wireless transmitter connected to one of the collar portions (Anderson; Fig. 1 and col. 4 line 28-31)

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FATIMAT O. OLANIRAN whose telephone number is (571)270-3437. The examiner can normally be reached on M-F 10:00-6 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivian Chin can be reached on 571-272-7848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Xu Mei/
Primary Examiner, Art Unit 2614

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